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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 1

Session of  
1995

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INTRODUCED BY BRIGHTBILL, PORTERFIELD, SHAFFER, LAVALLE, MUSTO,  
STEWART, BELAN, JUBELIRER, LOEPER, ROBBINS, STAPLETON, STOUT,  
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ULIANA, WENGER, MADIGAN, DELP AND ARMSTRONG, JANUARY 17, 1995

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AS REPORTED FROM COMMITTEE ON ENVIRONMENTAL RESOURCES AND  
ENERGY, HOUSE OF REPRESENTATIVES, AS AMENDED, APRIL 26, 1995

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AN ACT

1 Providing for the recycling of existing industrial and  
2 commercial sites; further defining the cleanup liability of  
3 new industries and tenants; establishing a framework for  
4 setting environmental remediation standards; establishing the  
5 Voluntary Cleanup Loan Fund and, the Industrial Land <—  
6 Recycling Fund AND THE INDUSTRIAL SITES CLEANUP FUND to aid <—  
7 industrial site cleanups; assigning powers and duties to the  
8 Environmental Quality Board and the Department of  
9 Environmental Resources; and making repeals.

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4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby enacts as follows:

6 CHAPTER 1

7 GENERAL PROVISIONS

8 Section 101. Short title.

9 This act shall be known and may be cited as the Land  
10 Recycling and Environmental Remediation Standards Act.

11 Section 102. Declaration of policy.

12 The General Assembly finds and declares as follows:

13 (1) The elimination of public health and environmental  
14 hazards on existing commercial and industrial land across  
15 this Commonwealth is vital to their use and reuse as sources  
16 of employment, housing, recreation and open-space areas. The  
17 reuse of industrial land is an important component of a sound  
18 land-use policy that will help prevent the needless  
19 development of prime farmland, open-space areas and natural  
20 areas and reduce public costs for installing new water, sewer  
21 and highway infrastructure.

22 (2) Incentives should be put in place to encourage  
23 responsible persons to voluntarily develop and implement  
24 cleanup plans without the use of taxpayer funds or the need  
25 for adversarial enforcement actions by the Department of  
26 Environmental Resources which frequently only serve to delay  
27 cleanups and increase their cost.

28 (3) Public health and environmental hazards cannot be  
29 eliminated without clear, predictable environmental  
30 remediation standards and a process for developing those

standards. Any remediation standards adopted by this Commonwealth must provide for the protection of public health and the environment.

(4) It is necessary for the General Assembly to adopt a statute which sets environmental remediation standards to provide a uniform framework for cleanup decisions because few environmental statutes set cleanup standards and to avoid potentially conflicting and confusing environmental standards. The General Assembly also has a duty to implement the provisions of section 27 of Article I of the Constitution of Pennsylvania with respect to environmental remediation activities.

(5) IT IS NECESSARY FOR THE GENERAL ASSEMBLY TO ADOPT A STATUTE WHICH PROVIDES A MECHANISM TO ESTABLISH CLEANUP STANDARDS WITHOUT RELIEVING A PERSON FROM ANY LIABILITY FOR ADMINISTRATIVE, CIVIL OR CRIMINAL FINES OR PENALTIES OTHERWISE AUTHORIZED BY LAW AND IMPOSED AS A RESULT OF ILLEGAL DISPOSAL OF WASTE OR FOR POLLUTION OF THE LAND, AIR OR WATERS OF THIS COMMONWEALTH ON AN IDENTIFIED SITE.

~~(5)~~ (6) Cleanup plans should be based on the actual risk that contamination on the site may pose to public health and the environment, taking into account its current and future use and the degree to which contamination can spread offsite and expose the public or the environment to risk, not on cleanup policies requiring every site in this Commonwealth to be returned to a pristine condition.

(7) CLEANUP PLANS SHOULD HAVE AS A GOAL REMEDIES WHICH TREAT, DESTROY OR REMOVE REGULATED SUBSTANCES WHENEVER FEASIBLE.

~~(6)~~ (8) The Department of Environmental Resources now

1 routinely through its permitting policies determines when  
2 contamination will and will not pose a significant risk to  
3 public health or the environment. Similar concepts should be  
4 used in establishing cleanup policies.

5 ~~(7)~~ (9) The public is entitled to understand how <—  
6 remediation standards are applied to a site through a plain  
7 language description of contamination present on a site, the  
8 risk it poses to public health and the environment and any  
9 proposed cleanup measure.

10 Section 103. Definitions.

11 The following words and phrases when used in this act shall  
12 have the meanings given to them in this section unless the  
13 context clearly indicates otherwise:

14 "Agricultural chemical." A substance defined as a  
15 fertilizer, soil conditioner or plant growth substance under the  
16 act of May 29, 1956 (P.L.1795, No.598), known as the  
17 Pennsylvania Fertilizer, Soil Conditioner and Plant Growth  
18 Substance Law, or a substance regulated under the act of March  
19 1, 1974 (P.L.90, No.24), known as the Pennsylvania Pesticide  
20 Control Act of 1973.

21 "Agricultural chemical facility." A facility where  
22 agricultural chemicals are held, stored, blended, formulated,  
23 sold or distributed. The term does not include facilities  
24 identified by SIC 2879 where agricultural chemicals are  
25 manufactured.

26 "Aquifer." A geologic formation, group of formations or part  
27 of a formation capable of a sustainable yield of significant  
28 amount of water to a well or spring.

29 "Background." The concentration of a regulated substance  
30 determined by appropriate statistical methods that is present at

1 the site, but is not related to the release of regulated  
2 substances at the site.

3 "BADCT" or "Best Available Demonstrated Control Technology."  
4 The commercially available engineering technology which has  
5 demonstrated at full scale on a consistent basis that it most  
6 effectively achieves the standard for a remediation action for a  
7 regulated substance at a contaminated site under similar  
8 applications.

9 "Board." The Cleanup Standards Scientific Advisory Board  
10 established in section 105.

11 "Carcinogen." A chemical, biological or physical agent  
12 defined by the Environmental Protection Agency as a human  
13 carcinogen.

14 "Cleanup or remediation." To clean up, mitigate, correct,  
15 abate, minimize, eliminate, control or prevent a release of a  
16 regulated substance into the environment in order to protect the  
17 present or future public health, safety, welfare or the  
18 environment, including preliminary actions to study or assess  
19 the release.

20 "Contaminant." A regulated substance released into the  
21 environment.

22 "Control." To apply engineering measures, such as capping or  
23 treatment, or institutional measures, such as deed restrictions,  
24 to sites with contaminated media.

25 "Department." The Department of Environmental Resources of  
26 the Commonwealth or its successor agency.

27 "Engineering controls." Remedial actions directed  
28 exclusively toward containing or controlling the migration of  
29 regulated substances through the environment. These include, but  
30 are not limited to, slurry walls, liner systems, caps, leachate

1 collection systems and groundwater recovery trenches.

2 "EPA." The Environmental Protection Agency or its successor  
3 agency.

4 "Fate and transport." A term used to describe the  
5 degradation of a chemical over time, and where chemicals are  
6 likely to move given their physical and other properties and the  
7 environmental medium they are moving through.

8 "Groundwater." Water below the land surface in a zone of  
9 saturation.

10 "Hazard index." The sum of more than one hazard quotient for  
11 multiple substances and multiple exposure pathways. The hazard  
12 index is calculated separately for chronic, subchronic and  
13 shorter duration exposures.

14 "Hazard quotient." The ratio of a single substance exposure  
15 level over a specified period, e.g. subchronic, to a reference  
16 dose for that substance derived from a similar exposure period.

17 "Hazardous Sites Cleanup Fund." The fund established under  
18 the act of October 18, 1988 (P.L.756, No.108), known as the  
19 Hazardous Sites Cleanup Act.

20 "Health advisory levels" or "HALs." The health advisory  
21 levels published by the United States Environmental Protection  
22 Agency for particular substances.

23 "Industrial activity." Commercial, manufacturing, public  
24 utility, mining or any other activity done to further either the  
25 development, manufacturing or distribution of goods and  
26 services, intermediate and final products and solid waste  
27 created during such activities, including, but not limited to,  
28 administration of business activities, research and development,  
29 warehousing, shipping, transport, remanufacturing, stockpiling  
30 of raw materials, storage, repair and maintenance of commercial

1 machinery and equipment and solid waste management.

2 "Institutional controls." A measure undertaken to limit or  
3 prohibit certain activities that may interfere with the  
4 integrity of a remedial action or result in exposure to  
5 regulated substances at a site. These include, but are not  
6 limited to, fencing or restrictions on the future use of the  
7 site.

8 "Medium-specific concentration." The concentration  
9 associated with a specified environmental medium for potential  
10 risk exposures.

11 "Mitigation measures." Any remediation action performed by a  
12 person prior to or during implementation of a remediation plan  
13 with the intent to protect human health and the environment.

14 "Municipality." A township, borough, city, incorporated  
15 village or home rule municipality. This term shall not include a  
16 county.

17 "Nonresidential property." Any real property on which  
18 commercial, industrial, manufacturing or any other activity is  
19 done to further either the development, manufacturing or  
20 distribution of goods and services, intermediate and final  
21 products, including, but not limited to, administration of  
22 business activities, research and development, warehousing,  
23 shipping, transport, remanufacturing, stockpiling of raw  
24 materials, storage, repair and maintenance of commercial  
25 machinery and equipment, and solid waste management. This term  
26 shall not include schools, nursing homes or other residential-  
27 style facilities or recreational areas.

28 "Person." An individual, firm, corporation, association,  
29 partnership, consortium, joint venture, commercial entity,  
30 authority, nonprofit corporation, interstate body or other legal



1 entity which is recognized by law as the subject of rights and  
2 duties. The term includes the Federal Government, State  
3 government, political subdivisions and Commonwealth  
4 instrumentalities.

5 "Point of compliance." For the purposes of determining  
6 compliance with groundwater standards, the property boundary at  
7 the time the contamination is discovered or such point beyond  
8 the property boundary as the Department of Environmental  
9 Resources may determine to be appropriate.

10 "Practical quantitation limit." The lowest limit that can be  
11 reliably achieved within specified limits of precision and  
12 accuracy under routine laboratory conditions for a specified  
13 matrix and based on quantitation, precision and accuracy, normal  
14 operation of a laboratory and the practical need in a  
15 compliance-monitoring program to have a sufficient number of  
16 laboratories available to conduct the analyses.

17 "Public utility." The term shall have the same meaning as  
18 given to it in 66 Pa.C.S. (relating to public utilities).

19 "Regulated substance." The term shall include hazardous  
20 substances and contaminants regulated under the act of October  
21 18, 1988 (P.L.756, No.108), known as the Hazardous Sites Cleanup  
22 Act, and substances covered by the act of June 22, 1937  
23 (P.L.1987, No.394), known as The Clean Streams Law, the act of  
24 January 8, 1960 (1959 P.L.2119, No.787), known as the Air  
25 Pollution Control Act, the act of July 7, 1980 (P.L.380, No.97),  
26 known as the Solid Waste Management Act, the act of July 13,  
27 1988 (P.L.525, No.93), referred to as the Infectious and  
28 Chemotherapeutic Waste Law, and the act of July 6, 1989  
29 (P.L.169, No.32), known as the Storage Tank and Spill Prevention  
30 Act.

1 "Release." Spilling, leaking, pumping, pouring, emitting,  
2 emptying, discharging, injecting, escaping, leaching, dumping or  
3 disposing of a regulated substance into the environment in a  
4 manner not authorized by the Department of Environmental  
5 Resources. The term includes the abandonment or discarding of  
6 barrels, containers, vessels and other receptacles containing a  
7 regulated substance.

8 "Residential property." Any property or portion of the  
9 property which does not meet the definition of "nonresidential  
10 property."

11 "Responsible person." The term shall have the same meaning  
12 as given to it in the act of October 18, 1988 (P.L.756, No.108),  
13 known as the Hazardous Sites Cleanup Act, and shall include a  
14 person subject to enforcement actions for substances covered by  
15 the act of June 22, 1937 (P.L.1987, No.394), known as The Clean  
16 Streams Law, the act of January 8, 1960 (1959 P.L.2119, No.787),  
17 known as the Air Pollution Control Act, the act of July 7, 1980  
18 (P.L.380, No.97), known as the Solid Waste Management Act, the  
19 act of July 13, 1988 (P.L.525, No.93), referred to as the  
20 Infectious and Chemotherapeutic Waste Law, and the act of July  
21 6, 1989 (P.L.169, No.32), known as the Storage Tank and Spill  
22 Prevention Act.

23 "Secretary." The Secretary of Environmental Resources of the  
24 Commonwealth.

25 "Site." The extent of contamination originating within the  
26 property boundaries and all areas in close proximity to the  
27 contamination necessary for the implementation of remediation  
28 activities to be conducted under this act.

29 "Systemic toxicant." A material that manifests its toxic  
30 effect in humans in a form other than cancer.

1 "Treatment." The term shall have the same meaning as given  
2 to it in the act of October 18, 1988 (P.L.756, No.108), known as  
3 the Hazardous Sites Cleanup Act.

4 Section 104. Powers and duties.

5 (a) Environmental Quality Board.--The Environmental Quality  
6 Board shall have the power and its duty shall be to adopt and  
7 amend periodically thereafter by regulation Statewide health  
8 standards, appropriate mathematically valid statistical tests to  
9 define compliance with this act and other regulations that may  
10 be needed to implement the provisions of this act. Any  
11 regulations needed to implement this act shall be proposed no  
12 later than 12 months after the effective date of this act and  
13 shall be finalized no later than 24 months after the effective  
14 date of this act, unless otherwise specified in this act.

15 (b) Department.--The department shall have the power and its  
16 duty shall be to implement the provisions of this act.

17 Section 105. Cleanup Standards Scientific Advisory Board.

18 (a) Establishment.--There is hereby created a 13-member  
19 Cleanup Standards Scientific Advisory Board for the purpose of  
20 assisting the department and the Environmental Quality Board in  
21 developing Statewide health standards, determining the  
22 appropriate statistically and scientifically valid procedures to  
23 be used, determining the appropriate risk factors and providing  
24 other technical and scientific advice as needed to implement the  
25 provisions of this act.

26 (b) Membership.--Five members shall be appointed by the  
27 secretary and two members each by the President pro tempore of  
28 the Senate, the Minority Leader of the Senate, the Speaker of  
29 the House of Representatives and the Minority Leader of the  
30 House of Representatives. Members shall have a background in

1 engineering, biology, hydrogeology, statistics, medicine,  
2 chemistry, toxicology or other related scientific education or  
3 experience that relates to problems and issues likely to be  
4 encountered in developing health-based cleanup standards and  
5 other procedures needed to implement the provisions of this act.  
6 The board membership shall include representatives of local  
7 government, the public, the academic community, professionals  
8 with the appropriate background and the regulated community  
9 (manufacturing, small business and other members of the business  
10 community). The members shall serve for a period of four years.  
11 The initial terms of the members shall be staggered so that at  
12 least one-half of the members' terms expire in two years.

13 (c) Organization.--The board shall elect a chairperson by  
14 majority vote and may adopt any bylaws or procedures it deems  
15 necessary to accomplish its purpose. Recommendations, positions  
16 or other actions of the board shall be by a majority of its  
17 members.

18 (d) Expenses.--Members of the board shall be reimbursed for  
19 their travel expenses to attend meetings as authorized by the  
20 executive board.

21 (e) Support.--The department shall provide the appropriate  
22 administrative and technical support needed by the board in  
23 order to accomplish its purpose, including support for surveys  
24 and technical studies the board may wish to undertake. The  
25 department shall publish a notice of meeting dates, times and  
26 locations and a list of topics to be discussed at any meeting no  
27 less than 14 days prior to the meeting, published in the same  
28 manner as required by the act of July 3, 1986 (P.L.388, No.84),  
29 known as the Sunshine Act.

30 (f) Interested persons list.--The department shall maintain

1 a mailing list of persons interested in receiving notice of  
2 meetings and the activities of the board. The department shall  
3 name a contact person to be responsible for board meetings and  
4 to serve as a contact for the public to ask questions and get  
5 information about the board.

6 (g) Access to documents.--The board shall have access to all  
7 policies and procedures, draft proposed or final regulations or  
8 issue papers which the board determines are necessary to  
9 achieving its purpose.

10 Section 106. Scope.

11 (A) REMEDIATION STANDARDS.--The environmental remediation <—  
12 standards established under this act shall be used whenever site  
13 remediation is voluntarily conducted or is required under the  
14 act of June 22, 1937 (P.L.1987, No.394), known as The Clean  
15 Streams Law, the act of January 8, 1960 (1959 P.L.2119, No.787),  
16 known as the Air Pollution Control Act, the act of July 7, 1980  
17 (P.L.380, No.97), known as the Solid Waste Management Act, the  
18 act of July 13, 1988 (P.L.525, No.93), referred to as the  
19 Infectious and Chemotherapeutic Waste Law, the act of October  
20 18, 1988 (P.L.756, No.108), known as the Hazardous Sites Cleanup  
21 Act, and the act of July 6, 1989 (P.L.169, No.32), known as the  
22 Storage Tank and Spill Prevention Act, to be eligible for  
23 cleanup liability protection under Chapter 5. In addition, the  
24 remediation standards established under this act shall be  
25 considered as applicable, relevant and appropriate requirements  
26 for this Commonwealth under the Comprehensive Environmental  
27 Response, Compensation, and Liability Act of 1980 (Public Law  
28 96-510, 94 Stat. 2767) and the Hazardous Sites Cleanup Act.

29 (B) DISCLAIMER.--NOTHING IN THIS ACT IS INTENDED TO NOR <—  
30 SHALL IT BE CONSTRUED TO AMEND, MODIFY, REPEAL OR OTHERWISE

1 ALTER ANY PROVISION OF ANY ACT CITED IN THIS SECTION RELATING TO  
2 CIVIL AND CRIMINAL PENALTIES OR ENFORCEMENT ACTIONS AND REMEDIES  
3 AVAILABLE TO THE DEPARTMENT, OR, IN ANY WAY, TO AMEND, MODIFY,  
4 REPEAL OR ALTER THE AUTHORITY OF THE DEPARTMENT TO TAKE  
5 APPROPRIATE CIVIL AND CRIMINAL ACTION UNDER THESE STATUTES.

6 Section 107. Existing standards.

7 (a) General rule.--The department may continue to use  
8 remediation standards not adopted under the provisions of this  
9 act for a period of up to three years after the effective date  
10 of this act, unless such existing standards are revised or  
11 replaced by regulations adopted under this act. All regulations,  
12 policies, guidance documents and procedures relating to  
13 remediation standards which were not adopted under the  
14 provisions of this act shall expire three years after the  
15 effective date of this act. The standards AND PROCEDURES <—  
16 established in sections ~~302, 303(b)(3)~~ 301, 302, 303(B) and 304 <—  
17 shall be available for use on the effective date of this act and  
18 shall supersede existing regulations, policies, guidance  
19 documents and procedures.

20 (b) Agreements and consent orders.--The standards  
21 established under this act are not intended to impose more  
22 stringent cleanup standards than those which are contained in  
23 any prior administrative consent order, consent adjudication,  
24 judicially approved consent order, or other settlement agreement  
25 entered into with the department under the authority of any of  
26 the statutes referred to in section 106 and which were entered  
27 into with the department on or before the effective date of this  
28 act, unless all parties thereto agree to such change.

29 CHAPTER 3

30 REMEDIATION STANDARDS AND REVIEW PROCEDURES

1 Section 301. Remediation standards.

2 (a) Standards.--Any person who proposes or is required to  
3 respond to the release of a regulated substance at a site and  
4 who wants to be eligible for the cleanup liability protection  
5 under Chapter 5 shall select and attain compliance with one or  
6 more of the following environmental standards when conducting  
7 remediation activities:

8 (1) a background standard which achieves background as  
9 further specified in section 302;

10 (2) a Statewide health standard adopted by the  
11 Environmental Quality Board which achieves a uniform  
12 Statewide health-based level so that any substantial present  
13 or probable future risk to human health and the environment  
14 is eliminated as specified in section 303; or

15 (3) a site-specific standard which achieves remediation  
16 levels based on a site-specific risk assessment so that any  
17 substantial present or probable future risk to human health  
18 and the environment is eliminated or reduced to protective  
19 levels based upon the present or currently planned future use  
20 of the property comprising the site as specified in section  
21 304.

22 (b) Combination of standards.--A person may use a  
23 combination of the remediation standards to implement a site  
24 remediation plan and may propose to use the site-specific  
25 standard whether or not efforts have been made to attain the  
26 background or Statewide health standard.

27 (c) Determining attainment.--For the purposes of determining  
28 attainment of any one or a combination of remediation standards,  
29 the concentration of a regulated substance shall not be required  
30 to be less than the practical quantitation limit for a regulated

1 substance as determined from time to time by the EPA. The  
2 department may, in consultation with the board, establish by  
3 regulation procedures for determining attainment of remediation  
4 standards when practical quantitation limits set by the EPA have  
5 a health risk that is greater than the risk levels set in  
6 sections 303(c) and 304(b) and (c). The department shall not  
7 establish procedures for determining attainment of remediation  
8 standards where maximum contaminant levels and health advisory  
9 levels have already been established for regulated substances.  
10 Section 302. Background standard.

11 (a) Standard.--Persons selecting the background standard  
12 shall meet background for each regulated substance in each  
13 environmental medium.

14 (b) Attainment.--Final certification that a site or portion  
15 of a site meets the background standard shall be documented in  
16 the following manner:

17 (1) Attainment of the background standard shall be  
18 demonstrated by collection and analysis of representative  
19 samples from environmental media of concern, including soils  
20 and groundwater in aquifers in the area where the  
21 contamination occurs through the application of statistical  
22 tests set forth in regulation or, if no regulations have been  
23 adopted, in a demonstration of a mathematically valid  
24 application of statistical tests. The Department of  
25 Environmental Resources shall also recognize those methods of  
26 attainment demonstration generally recognized as appropriate  
27 for that particular remediation.

28 (2) A final report that documents attainment of the  
29 background standard shall be submitted to the department  
30 which includes, as appropriate:



(i) The descriptions of procedures and conclusions of the site investigation to characterize the nature, extent, direction, volume and composition or regulated substances.

(ii) The basis for selecting environmental media of concern, descriptions of removal or decontamination procedures performed in remediation, summaries of sampling methodology and analytical results which demonstrate that remediation has attained the background standard.

(3) Where remediation measures do not involve removal or treatment of a contaminant to the background standard, the final report shall demonstrate that any remaining contaminants on the site will meet Statewide health standards and show compliance with any postremediation care requirements that may be needed to maintain compliance with the Statewide health standards.

(4) Institutional controls such as fencing and future land use restrictions on a site may not be used to attain the background standard. Institutional controls may be used to maintain the background standard after remediation occurs.

(c) Authority reserved.--If a person fails to demonstrate attainment of the background standard, the department may require that additional remediation measures be taken in order to meet the background standard or the person may select to meet the requirements of section 303 or 304.

(d) Deed notice.--Persons attaining and demonstrating compliance with the background standard for all regulated substances ~~throughout a site~~ shall not be subject to the deed acknowledgment requirements of the act of July 7, 1980 (P.L.380,

<—

1 No.97), known as the Solid Waste Management Act, or the act of  
2 October 18, 1988 (P.L.756, No.108), known as the Hazardous Sites  
3 Cleanup Act. An existing acknowledgment contained in a deed  
4 prior to demonstrating compliance with the background standard  
5 may be removed.

6 (e) Notice and review provisions.--Persons utilizing the  
7 background standard shall comply with the following requirements  
8 for notifying the public and the department of planned  
9 remediation activities:

10 (1) Notice of intent to initiate remediation activities  
11 shall be made in the following manner:

12 (i) A notice of intent to remediate a site shall be  
13 submitted to the department which, to the extent known,  
14 provides a brief description of the location of the site,  
15 a listing of the contaminant or contaminants involved, a  
16 description of the intended future use of the property  
17 for employment opportunities, housing, open space,  
18 recreation or other uses, and the proposed remediation  
19 measures. The department shall publish an acknowledgment  
20 noting receipt of the notice of intent in the  
21 Pennsylvania Bulletin.

22 (ii) At the same time a notice of intent to  
23 remediate a site is submitted to the department, a copy  
24 of the notice shall be provided to the municipality in  
25 which the site is located and a summary of the notice of  
26 intent shall be published in a newspaper of general  
27 circulation serving the area in which the site is  
28 located.

29 (2) Notice of the submission of the final report  
30 demonstrating attainment of the background standard shall be

1 given to the municipality in which the remediation site is  
2 located, published in a newspaper of general circulation  
3 serving the area and in the Pennsylvania Bulletin.

4 (3) The department shall review the final report  
5 demonstrating attainment of the background standard within 60  
6 days of its receipt or notify the person submitting the  
7 report of substantive deficiencies. If the department does  
8 not respond with deficiencies within 60 days, the final  
9 report shall be deemed approved.

10 (4) The notices provided for in paragraphs (1) and (2)  
11 are not required to be made or published if the person  
12 conducting the remediation submits the final report  
13 demonstrating attainment of the background standard as  
14 required by this section within 90 days of the release. If  
15 the final report demonstrating attainment is not submitted to  
16 the department within 90 days of the release, all notices and  
17 procedures required by this section shall apply. This  
18 paragraph is only applicable to releases occurring after the  
19 effective date of this act.

20 Section 303. Statewide health standard.

21 (a) Standard.--The Environmental Quality Board shall  
22 promulgate Statewide health standards for regulated substances  
23 for each environmental medium. The standards shall include any  
24 existing numerical residential and nonresidential health-based  
25 standards adopted by the department and by the Federal  
26 Government by regulation or statute, and health advisory levels.  
27 For those health-based standards not already established by  
28 regulation or statute, the Environmental Quality Board shall, by  
29 regulation, propose residential and nonresidential standards as  
30 medium-specific concentrations within 12 months of the effective

1 date of this act. The Environmental Quality Board shall also  
2 promulgate, along with the standards, the methods used to  
3 calculate the standards. Standards adopted under this section  
4 shall be no more stringent than those standards adopted by the  
5 Federal Government.

6 (b) Medium-specific concentrations.--The following  
7 requirements shall be used to establish a medium-specific  
8 concentration:

9 (1) Any regulated discharge into surface water occurring  
10 during or after attainment of the Statewide health standard  
11 shall comply with applicable laws and regulations relating to  
12 surface water discharges.

13 (2) Any regulated emissions to the outdoor air occurring  
14 during or after attainment of the Statewide health standard  
15 shall comply with applicable laws and regulations relating to  
16 emissions into the outdoor air.

17 (3) The concentration of a regulated substance in  
18 groundwater in aquifers used or currently planned to be used  
19 for drinking water or for agricultural purposes shall comply  
20 with the maximum contaminant level or health advisory level  
21 established for drinking water. If the groundwater at the  
22 site has naturally occurring background total dissolved  
23 solids concentrations greater than 2,500 milligrams per  
24 liter, the remediation standard for a regulated substance  
25 dissolved in the groundwater may be adjusted by multiplying  
26 the medium-specific concentration for groundwater in aquifers  
27 by 100. The resulting value becomes the maximum contaminant  
28 level for groundwater.

29 (4) For the residential standard, the concentration of a  
30 regulated substance in soil shall not exceed either the

1 direct contact soil medium-specific concentration based on  
2 residential exposure factors within a depth of up to 15 feet  
3 from the existing ground surface, or the soil-to-groundwater  
4 pathway numeric value throughout the soil column, the latter  
5 to be determined by any one of the following methods:

6 (i) A value which is 100 times the medium-specific  
7 concentration for groundwater.

8 (ii) A concentration in soil at the site that does  
9 not produce a leachate in excess of the medium-specific  
10 concentrations for groundwater in the aquifer when  
11 subjected to the Synthetic Precipitation Leaching  
12 Procedures, Method 1312 of SW 846, Test Methods for  
13 Evaluating Solid Waste, promulgated by the United States  
14 Environmental Protection Agency.

15 (iii) A generic value determined not to produce a  
16 concentration in groundwater in the aquifer in excess of  
17 the medium-specific concentration for groundwater based  
18 on a valid, peer-reviewed scientific method which  
19 properly accounts for factors affecting the fate,  
20 transport and attenuation of the regulated substance  
21 throughout the soil column.

22 (5) For the nonresidential standard, the concentration  
23 of a regulated substance in soil shall not exceed either the  
24 direct contact soil medium-specific concentration based on  
25 nonresidential exposure factors within a depth of up to 15  
26 feet from the existing ground surface using valid scientific  
27 methods reflecting worker exposure or the soil to groundwater  
28 pathway numeric value determined in accordance with paragraph  
29 (4).

30 (6) Exposure scenarios for medium-specific

1 concentrations for nonresidential conditions shall be  
2 established using valid scientific methods reflecting worker  
3 exposure.

4 (c) Additional factors.--When establishing a medium-specific  
5 concentration, other than those established under subsection  
6 (b)(1), (2) or (3), the medium-specific concentration for the  
7 ingestion of groundwater, inhalation of soils, ingestion and  
8 inhalation of volatiles and particulates shall be calculated by  
9 the department using valid scientific methods, reasonable  
10 exposure pathway assumptions and exposure factors for  
11 residential and nonresidential land use which are no more  
12 stringent than the standard default exposure factors established  
13 by EPA based on the following levels of risk:

14 (1) For a regulated substance which is a carcinogen, the  
15 medium-specific concentration is the concentration which  
16 represents an excess upper bound lifetime cancer target risk  
17 of between 1 in 10,000 and 1 in 1,000,000.

18 (2) For a regulated substance which is a systemic  
19 toxicant, the medium-specific concentration is the  
20 concentration to which human populations could be exposed by  
21 direct ingestion or inhalation on a daily basis without  
22 appreciable risk of deleterious effects for the exposed  
23 population.

24 (d) Relationship to background.--The concentration of a  
25 regulated substance in an environmental ~~media~~ MEDIUM of concern <—  
26 on a site where the Statewide health standard has been selected  
27 shall not be required to meet the Statewide health standard if  
28 the Statewide health standard is numerically less than the  
29 background standard. In such cases, the background standard  
30 shall apply.

(e) Attainment.--Final certification that a site or portion of a site meets the Statewide health standard shall be documented in the following manner:

(1) Attainment of cleanup levels shall be demonstrated by collection and analysis of representative samples from the environmental medium of concern, including soils, and groundwater in aquifers at the point of compliance through the application of statistical tests set forth in regulation or, if no regulations have been adopted, in a demonstration of a mathematically valid application of statistical tests. The Department of Environmental Resources shall also recognize those methods of attainment demonstration generally recognized as appropriate for that particular remediation.

(2) A final report that documents attainment of the Statewide health standard shall be submitted to the department which includes the descriptions of procedures and conclusions of the site investigation to characterize the nature, extent, direction, rate of movement of the site and cumulative effects, if any, volume, composition and concentration of contaminants in environmental media, the basis for selecting environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, descriptions of removal or treatment procedures performed in remediation, summaries of sampling methodology and analytical results which demonstrate that contaminants have been removed or treated to applicable levels and documentation of compliance with postremediation care requirements if they are needed to maintain the Statewide health standard.

(3) Institutional controls such as fencing and future

1 land use restrictions on a site may not be used to attain the  
2 Statewide health standard. Institutional controls may be used  
3 to maintain the Statewide health standard after remediation  
4 occurs.

5 (f) Authority reserved.--If a person fails to demonstrate  
6 attainment of the Statewide health standard, the department may  
7 require that additional remediation measures be taken in order  
8 to meet the health standard or the person may select to meet the  
9 requirements of section 302 or 304.

10 (g) Deed notice.--Persons attaining and demonstrating  
11 compliance with the Statewide health standard considering  
12 residential exposure factors for a regulated substance ~~on the~~ <—  
13 ~~entire site~~ shall not be subject to the deed acknowledgment  
14 requirements of the act of July 7, 1980 (P.L.380, No.97), known  
15 as the Solid Waste Management Act, or the act of October 18,  
16 1988 (P.L.756, No.108), known as the Hazardous Sites Cleanup  
17 Act. An existing acknowledgment contained in a deed prior to  
18 demonstrating compliance with the residential Statewide health  
19 standard may be removed. The deed acknowledgment requirements  
20 shall apply where nonresidential exposure factors were used to  
21 comply with the Statewide health standard.

22 (h) Notice and review provisions.--Persons utilizing the  
23 Statewide health standard shall comply with the following  
24 requirements for notifying the public and the department of  
25 planned remediation activities:

26 (1) Notice of intent to initiate remediation activities  
27 shall be made in the following manner:

28 (i) A notice of intent to remediate a site shall be  
29 submitted to the department which provides, to the extent  
30 known, a brief description of the location of the site, a



1 listing of the contaminant or contaminants involved, a  
2 description of the intended future use of the property  
3 for employment opportunities, housing, open space,  
4 recreation or other uses and the proposed remediation  
5 measures. The department shall publish an acknowledgment  
6 noting receipt of the notice of intent in the  
7 Pennsylvania Bulletin.

8 (ii) At the same time a notice of intent to  
9 remediate a site is submitted to the department, a copy  
10 of the notice shall be provided to the municipality in  
11 which the site is located and a summary of the notice of  
12 intent shall be published in a newspaper of general  
13 circulation serving the area in which the site is  
14 located.

15 (2) Notice of the submission of the final report  
16 demonstrating attainment of the Statewide health standard  
17 shall be given to the municipality in which the remediation  
18 site is located, published in a newspaper of general  
19 circulation serving the area and in the Pennsylvania  
20 Bulletin.

21 (3) The department shall review the final report  
22 demonstrating attainment of the Statewide health standard  
23 within 60 days of its receipt or notify the person submitting  
24 the report of substantive deficiencies. If the department  
25 does not respond with deficiencies within 60 days, the final  
26 report shall be deemed approved.

27 (4) The notices provided for in paragraphs (1) and (2)  
28 are not required to be made or published if the person  
29 conducting the remediation submits the final report  
30 demonstrating attainment of the Statewide health standard as

required by this section within 90 days of the release. If the final report demonstrating attainment is not submitted to the department within 90 days of the release, all notices and procedures required by this section shall apply. This paragraph is only applicable to releases occurring after the effective date of this act.

Section 304. Site-specific standard.

(a) General.--Where a site-specific standard is selected as the environmental remediation standard or where the background or Statewide health standard is selected but not achieved, remedial investigation, risk assessment, cleanup plans and final reports shall be developed using the procedures and factors established by this section.

(b) Carcinogens.--For known or suspected carcinogens, soil and groundwater cleanup standards shall be established at exposures which represent an excess upper-bound lifetime risk of between 1 in 10,000 and 1 in 1,000,000. The cumulative excess risk to exposed populations, including sensitive subgroups, shall not be greater than 1 in 10,000.

(c) Systemic toxicants.--For systemic toxicants, soil and groundwater cleanup standards shall represent levels to which the human population could be exposed on a daily basis without appreciable risk of deleterious effect to the exposed population. Where several systemic toxicants affect the same target organ or act by the same method of toxicity, the hazard index shall not exceed one. The hazard index is the sum of the hazard quotients for multiple systemic toxicants acting through a single-medium exposure pathway or through multiple-media exposure pathways.

(d) Groundwater.--Cleanup standards for groundwater shall be

1 established in accordance with subsections (b) and (c) using the  
2 following considerations:

3 (1) For groundwater in aquifers, site-specific standards  
4 shall be established using the following procedures:

5 (i) The current and probable future use of  
6 groundwater shall be identified and protected.

7 Groundwater that has a background total dissolved solids  
8 content greater than 2,500 milligrams per liter or is not  
9 capable of transmitting water to a pumping well in usable  
10 and sustainable quantities shall not be considered a  
11 current or potential source of drinking water.

12 (ii) Site-specific sources of contaminants and  
13 potential receptors shall be identified.

14 (iii) Natural environmental conditions affecting the  
15 fate and transport of contaminants, such as natural  
16 attenuation, shall be determined by appropriate  
17 scientific methods.

18 (2) Groundwater not in aquifers shall be evaluated using  
19 current or probable future exposure scenarios. Appropriate  
20 management actions shall be instituted at the point of  
21 exposure where a person is exposed to groundwater by  
22 ingestion or other avenues to protect human health and the  
23 environment. This shall not preclude taking appropriate  
24 source management actions by the responsible party to achieve  
25 the equivalent level of protection.

26 (e) Soil.--Concentrations of regulated substances in soil  
27 shall not exceed: values calculated in accordance with  
28 subsections (b) and (c) based on human ingestion of soil where  
29 direct contact exposure to the soil may reasonably occur; values  
30 calculated to protect groundwater in aquifers at levels

1 determined in accordance with subsections (b), (c) and (d); and  
2 values calculated to satisfy the requirements of subsection (g)  
3 with respect to discharges or releases to surface water or  
4 emissions to the outdoor air. Such determinations shall take  
5 into account the effects of institutional and engineering  
6 controls, if any, and shall be based on sound scientific  
7 principles, including fate and transport analysis of the  
8 migration of a regulated substance in relation to receptor  
9 exposures.

10 (f) Factors.--In determining soil and groundwater cleanup  
11 standards under subsections (d) and (e), the following factors  
12 shall also be considered:

13 (1) Use of appropriate standard exposure factors for the  
14 land use of the site with reference to current and currently  
15 planned future land use and the effectiveness of  
16 institutional or legal controls placed on the future use of  
17 the land.

18 (2) Use of appropriate statistical techniques,  
19 including, but not limited to, Monte Carlo simulations, to  
20 establish statistically valid cleanup standards.

21 (3) The potential of human ingestion of regulated  
22 substances in surface water or other site-specific surface  
23 water exposure pathways, if applicable.

24 (4) The potential of human inhalation of regulated  
25 substances from the outdoor air and other site-specific air  
26 exposure pathways, if applicable.

27 (g) Air and surface water.--Any regulated discharge into  
28 surface water or any regulated emissions to the outdoor air  
29 which occur during or after attainment of the site-specific  
30 standard shall comply with applicable laws and regulations

1 relating to surface water discharges or emissions into the  
2 outdoor air.

3 (h) Relationship to background.--The concentration of a  
4 regulated substance in an environmental medium of concern on a  
5 site where the site-specific standard has been selected shall  
6 not be required to meet the site-specific standard if the site-  
7 specific standard is numerically less than the background  
8 standard. In such cases, the background standard shall apply.

9 (i) Combination of measures.--The standards may be attained  
10 through a combination of remediation activities that can include  
11 treatment, removal, engineering or institutional controls and  
12 can include innovative or other demonstrated measures. The  
13 department ~~may~~ SHALL disapprove a site-specific remediation plan <—  
14 that consists solely of ~~fencing~~ FENCES, warning signs or future <—  
15 land use restrictions UNLESS THE SITE-SPECIFIC STANDARD IS <—  
16 DEVELOPED ON THE BASIS OF EXPOSURE FACTORS WHICH ARE NO LESS  
17 STRINGENT THAN THOSE WHICH WOULD APPLY TO THE SITE AT THE TIME  
18 THE CONTAMINATION IS DISCOVERED.

19 (j) Remedy evaluation.--The final remediation plan for a  
20 site submitted to the department shall include remediation  
21 alternatives and a final remedy which consider each of the  
22 following factors:

23 (1) Long-term risks and effectiveness of the proposed  
24 remedy that includes an evaluation of:

25 (i) The magnitude of risks remaining after  
26 completion of the remedial action.

27 (ii) The type, degree and duration of  
28 postremediation care required, including, but not limited  
29 to, operation and maintenance, monitoring, inspections  
30 and reports and their frequencies or other activities

1           which will be necessary to protect human health and the  
2           environment.

3           (iii) Potential for exposure of human and  
4           environmental receptors to regulated substances remaining  
5           at the site.

6           (iv) Long-term reliability of any engineering and  
7           voluntary institutional controls.

8           (v) Potential need for repair, maintenance or  
9           replacement of components of the remedy.

10          (vi) Time to achieve cleanup standards.

11          (2) Reduction of the toxicity, mobility or volume of  
12          regulated substances, including the amount of regulated  
13          substances that will be removed, contained, treated or  
14          destroyed, the degree of expected reduction in toxicity,  
15          mobility or volume and the type, quantity, toxicity and  
16          mobility of regulated substances remaining after  
17          implementation of the remedy.

18          (3) Short-term risks and effectiveness of the remedy,  
19          including the short-term risks that may be posed to the  
20          community, workers or the environment during implementation  
21          of the remedy and the effectiveness and reliability of  
22          protective measures to address short-term risks.

23          (4) The ease or difficulty of implementing the proposed  
24          remedy, including commercially available remedial measures  
25          which are BADCT, degree of difficulty associated with  
26          constructing the remedy, expected operational reliability,  
27          available capacity and location of needed treatment, storage  
28          and disposal services for wastes, time to initiate remedial  
29          efforts and approvals necessary to implement the remedial  
30          efforts.

1           (5) The cost of the remediation measure, including  
2       capital costs, operation and maintenance costs, net present  
3       value of capital and operation and maintenance costs and the  
4       total costs and effectiveness of the system.

5           (6) The incremental health and economic benefits shall  
6       be evaluated by comparing those benefits to the incremental  
7       health and economic costs associated with implementation of  
8       remedial measures.

9       (k) Attainment.--Compliance with the site-specific standard  
10   is attained for a site or portion of a site when a remedy  
11   approved by the department has been implemented in compliance  
12   with the following criteria:

13           (1) Soil, groundwater, surface water and air emission  
14       standards as determined under subsections (a) through (h)  
15       have been attained.

16           (2) Attainment of the site-specific standard shall be  
17       demonstrated by collection and analysis of samples from  
18       affected media, as applicable, such as surface water, soil,  
19       groundwater in aquifers at the point of compliance through  
20       the application of statistical tests set forth in regulation  
21       or, if no regulations have been adopted, in a demonstration  
22       of a mathematically valid application of statistical tests.  
23       The Department of Environmental Resources shall also  
24       recognize those methods of attainment demonstration generally  
25       recognized as appropriate for that particular remediation.

26       (l) Site investigation and remedy selection.--Any person  
27   selecting to comply with site-specific standards established by  
28   this section shall submit the following reports and evaluations,  
29   as required under this section, for review and approval by the  
30   department:

1 (1) A remedial investigation report which includes:

2 (i) Documentation and descriptions of procedures and  
3 conclusions from the site investigation to characterize  
4 the nature, extent, direction, rate of movement, volume  
5 and composition of regulated substances.

6 (ii) The concentration of regulated substances in  
7 environmental media of concern, including summaries of  
8 sampling methodology and analytical results, and  
9 information obtained from attempts to comply with the  
10 background or Statewide health standards, if any.

11 (iii) A description of the existing or potential  
12 public benefits of the use or reuse of the property for  
13 employment opportunities, housing, open space, recreation  
14 or other uses.

15 (iv) A fate and transport analysis may be included  
16 in the report to demonstrate that no present or future  
17 exposure pathways exist.

18 (v) If no exposure pathways exist, a risk assessment  
19 report and cleanup plan are not required and no remedy is  
20 required to be proposed or completed.

21 (2) If required, a risk assessment report which  
22 describes the potential adverse effects under both current  
23 and planned future conditions caused by the presence of a  
24 regulated substance in the absence of any further control,  
25 remediation or mitigation measures. A baseline risk  
26 assessment report is not required where it is determined that  
27 a specific remediation measure can be implemented to attain  
28 the site-specific standard.

29 (3) A cleanup plan which evaluates the relative  
30 abilities and effectiveness of potential remedies to achieve



1 the requirements for remedies described in subsection (k)  
2 when considering the evaluation factors described in  
3 subsection (j). The plan shall select a remedy which achieves  
4 the requirements for remedies described in subsection (k).  
5 The department may require a further evaluation of the  
6 selected remedy or an evaluation of one or more additional  
7 remedies in response to comments received from the community  
8 surrounding the site as a result of the community involvement  
9 plan established in subsection (o) which are based on the  
10 factors described in subsection (j) or as a result of its own  
11 analysis which are based on the evaluation factors described  
12 in subsection (j).

13 (4) A final report demonstrating that the approved  
14 remedy has been completed in accordance with the cleanup  
15 plan.

16 (5) Nothing in this section shall preclude a person from  
17 submitting a remedial investigation report, risk assessment  
18 report and cleanup plan at one time to the department for  
19 review.

20 (m) Deed notice.--Persons attaining and demonstrating  
21 compliance with site-specific standards for a regulated  
22 substance ~~on a site~~ shall be subject to the deed acknowledgment <—  
23 requirements of the act of July 7, 1980 (P.L.380, No.97), known  
24 as the Solid Waste Management Act, or the act of October 18,  
25 1988 (P.L.756, No.108), known as the Hazardous Sites Cleanup  
26 Act. The notice shall include whether residential or  
27 nonresidential exposure factors were used to comply with the  
28 site-specific standard.

29 (n) Notice and review provisions.--Persons utilizing the  
30 site-specific standard shall comply with the following

requirements for notifying the public and the department of  
planned remediation activities:

(1) (i) A notice of intent to remediate a site shall be  
submitted to the department which provides, to the extent  
known, a brief description of the location of the site, a  
listing of the contaminant or contaminants involved and  
the proposed remediation measures. The department shall  
publish an acknowledgment noting receipt of the notice of  
intent in the Pennsylvania Bulletin. At the same time a  
notice of intent to remediate a site is submitted to the  
department, a copy of the notice shall be provided to the  
municipality in which the site is located and a summary  
of the notice of intent shall be published in a newspaper  
of general circulation serving the area in which the site  
is located.

(ii) The notices required by this paragraph shall  
include a 30-day public and municipal comment period  
during which the municipality can request to be involved  
in the development of the remediation and reuse plans for  
the site. If requested by the municipality, the person  
undertaking the remediation shall develop and implement a  
public involvement program plan which meets the  
requirements of subsection (o). Persons undertaking the  
remediation are encouraged to develop a proactive  
approach to working with the municipality in developing  
and implementing remediation and reuse plans.

(2) The following notice and review provisions apply  
each time a remedial investigation report, risk assessment  
report, cleanup plan and final report demonstrating  
compliance with the site-specific standard is submitted to

1 the department:

2 (i) When the report or plan is submitted to the  
3 department, a notice of its submission shall be provided  
4 to the municipality in which the site is located and a  
5 notice summarizing the findings and recommendations of  
6 the report or plan shall be published in a newspaper of  
7 general circulation serving the area in which the site is  
8 located. If the municipality requested to be involved in  
9 the development of the remediation and reuse plans, the  
10 reports and plans shall also include the comments  
11 submitted by the municipality, the public and the  
12 responses from the persons preparing the reports and  
13 plans.

14 (ii) The department shall review the report or plan  
15 within no more than 90 days of its receipt or notify the  
16 person submitting the report of deficiencies. If the  
17 department does not respond with deficiencies within 90  
18 days, the report shall be deemed approved.

19 (3) If the remedial investigation report, risk  
20 assessment report and cleanup plan are submitted at the same  
21 time to the department, the department shall notify persons  
22 of any deficiencies in 90 days. If the department does not  
23 respond with deficiencies within 90 days, the reports are  
24 deemed approved.

25 (o) Community involvement.--Persons using site-specific  
26 standards are required to develop a public involvement plan  
27 which involves the public in the cleanup and use of the property  
28 if the municipality requests to be involved in the remediation  
29 and reuse plans for the site. The plan shall propose measures to  
30 involve the public in the development and review of the remedial

1 investigation report, risk assessment report, cleanup plan and  
2 final report. Depending on the site involved, measures may  
3 include: techniques such as developing a proactive community  
4 information and consultation program that includes door step  
5 notice of activities related to remediation, public meetings and  
6 roundtable discussions, convenient locations where documents  
7 related to a remediation can be made available to the public and  
8 designating a single contact person to whom community residents  
9 can ask questions; the formation of a community-based group  
10 which is used to solicit suggestions and comments on the various  
11 reports required by this section; and if needed, the retention  
12 of trained, independent third parties to facilitate meetings and  
13 discussions and perform mediation services.

14 Section 305. Special industrial areas.

15 (a) Special sites.--For property used for industrial  
16 activities where there is no financially viable responsible  
17 person to clean up contamination or for land located within  
18 enterprise zones designated pursuant to the requirements of the  
19 Department of Community Affairs, the review procedures of this  
20 section shall apply for persons conducting remediation  
21 activities who did not cause or contribute to contamination on  
22 the property. Any environmental remediation undertaken pursuant  
23 to this section shall comply with one or more of the standards  
24 established in this chapter.

25 (b) Baseline report.--A baseline remedial investigation  
26 shall be conducted on the property based on a work plan approved  
27 by the department and a baseline environmental report shall be  
28 submitted to the department to establish a reference point  
29 showing existing contamination on the site. The report shall  
30 describe the proposed remediation measures to be undertaken

1 within the limits of cleanup liability found in section 502. The  
2 report shall also include a description of the existing or  
3 potential public benefits of the use or reuse of the property  
4 for employment opportunities, housing, open space, recreation or  
5 other use.

6 (c) Public review.--Persons undertaking the cleanup and  
7 reuse of sites under this section shall comply with the  
8 following public notice and review requirements:

9 (1) A notice of intent to remediate a site shall be  
10 submitted to the department which provides, to the extent  
11 known, a brief description of the location of the site, a  
12 listing of the contaminant or contaminants involved and the  
13 proposed remediation measures. The department shall publish  
14 an acknowledgment noting receipt of the notice of intent in  
15 the Pennsylvania Bulletin. At the same time a notice of  
16 intent to remediate a site is submitted to the department, a  
17 copy of the notice shall be provided to the municipality in  
18 which the site is located and a summary of the notice of  
19 intent shall be published in a newspaper of general  
20 circulation serving the area in which the site is located.

21 (2) The notices required by this subsection shall  
22 include a 30-day public and municipal comment period during  
23 which the municipality can request to be involved in the  
24 development of the remediation and reuse plans for the site.  
25 If requested by the municipality, the person undertaking the  
26 remediation shall develop and implement a public involvement  
27 program plan which meets the requirements of section 304(o).  
28 Persons undertaking the remediation are encouraged to develop  
29 a proactive approach to working with the municipality in  
30 developing and implementing remediation and reuse plans.

1 (d) Department review.--No later than 90 days after the  
2 completed environmental report is submitted for review, the  
3 department shall determine whether the report adequately  
4 identifies the environmental hazards and risks posed by the  
5 site. The comments obtained as a result of a public involvement  
6 plan developed under section 304(o) shall also be considered by  
7 the department. The department shall notify the person  
8 submitting the report of deficiencies within 90 days. If the  
9 department does not respond within 90 days, the report is  
10 considered approved.

11 (e) Agreement.--The department and the person undertaking  
12 the reuse of a special industrial site shall enter into an  
13 agreement based on the environmental report which outlines  
14 cleanup liability for the property.

15 (f) Department actions.--A person entering into an agreement  
16 pursuant to this section shall not interfere with any subsequent  
17 remediation efforts by the department or others to deal with  
18 contamination identified in the baseline environmental report so  
19 long as it does not disrupt the use of the property.

20 (g) Deed notice.--Persons entering into agreements pursuant  
21 to this section shall be subject to the deed acknowledgment  
22 requirements of the act of July 7, 1980 (P.L.380, No.97), known  
23 as the Solid Waste Management Act, or the act of October 18,  
24 1988 (P.L.756, No.108), known as the Hazardous Sites Cleanup  
25 Act, where applicable.

26 ~~Section 306. Privatization.~~

<—

27 ~~(a) General. The department shall develop a program to use~~  
28 ~~private firms to undertake a portion of the technical reviews~~  
29 ~~required under this act. As part of the program, the department~~  
30 ~~may:~~

~~(1) Develop a system of prequalified firms which supervise the development and implementation of cleanup plans and certify properties as meeting the environmental remediation standards established in this chapter.~~

~~(2) Develop programs in which private firms perform the technical review of remedial investigation reports, risk assessment reports, cleanup plans and final reports required to be submitted under this chapter.~~

~~(b) Audits. The department shall develop an auditing program sufficient to insure that private firms meet the requirements of the program.~~

~~(c) Report. The department shall on October 1 of each year report to the General Assembly on the activities the department has undertaken pursuant to this section.~~

~~(d) Private firm. Private firms undertaking a portion of the technical reviews under this section shall be subject to the same requirements as the department.~~

Section ~~307~~ 306. Local land development controls. <—

This act shall not affect the ability of local governments to regulate land development under the act of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania Municipalities Planning Code. The use of the identified property and any deed restrictions used as part of a remediation plan shall comply with local land development controls adopted under the Pennsylvania Municipalities Planning Code.

Section ~~308~~ 307. Immediate response. <—

(a) Emergency response.--The provisions of this chapter shall not prevent or impede the immediate response of the department or responsible person to an emergency which involves an imminent or actual release of a regulated substance which

1 threatens public health or the environment. The final  
2 remediation of the site shall comply with the provisions of this  
3 chapter which shall not be prejudiced by the mitigation measures  
4 undertaken to that point.

5 (b) Interim response.--The provisions of this chapter shall  
6 not prevent or impede a responsible person from undertaking  
7 mitigation measures to prevent significant impacts on human  
8 health or the environment. Those mitigation measures may include  
9 limiting public access to the release area, installing drainage  
10 controls to prevent runoff, stabilization and maintenance of  
11 containment structures, actions to prevent the migration of  
12 regulated substances, on-site treatment or other measures not  
13 prohibited by the department. The final remediation of the site  
14 shall comply with the provisions of this chapter which shall not  
15 be prejudiced by the mitigation measures undertaken to that  
16 point.

17 Section ~~309~~ 308. Appealable actions.

<—

18 Decisions by the department involving the reports and  
19 evaluations required under this chapter shall be considered  
20 appealable actions under the act of July 13, 1988 (P.L.530,  
21 No.94), known as the Environmental Hearing Board Act.

## 22 CHAPTER 5

### 23 CLEANUP LIABILITY PROTECTION

24 Section 501. Cleanup liability protection.

25 (a) General.--Any person demonstrating compliance with the  
26 environmental remediation standards established in Chapter 3  
27 shall be relieved of further liability for the remediation of  
28 the site under the statutes outlined in section 106 for any  
29 contamination identified in reports submitted to and approved by  
30 the department to demonstrate compliance with these standards



1 and shall not be subject to citizen suits or other contribution  
2 actions brought by responsible persons. The cleanup liability  
3 protection provided by this chapter applies to the following  
4 persons:

5 (1) The current or future owner of the identified  
6 property or any other person, who participated in the  
7 remediation of the site.

8 (2) A person who develops or otherwise occupies the  
9 identified site.

10 (3) A successor or assign of any person to whom the  
11 liability protection applies.

12 (4) A public utility to the extent the public utility  
13 performs activities on the identified site.

14 (b) Assessments.--A person shall not be considered a person  
15 responsible for a release or a threatened release of a regulated  
16 substance simply by virtue of conducting an environmental  
17 assessment or transaction screen on a property. Nothing in this  
18 section relieves a person of any liability for failure to  
19 exercise due diligence in performing an environmental assessment  
20 or transaction screen.

21 ~~(c) Illegal activities. The provisions of this chapter do~~ <—  
22 ~~not create a defense against the imposition of criminal and~~  
23 ~~civil fines and penalties or administrative penalties otherwise~~  
24 ~~authorized by law and imposed as the result of the illegal~~  
25 ~~disposal of waste or for the pollution of the land, air or~~  
26 ~~waters of this Commonwealth on the identified site.~~

27 Section 502. Special industrial areas.

28 (a) Agreement.--The department and the person undertaking  
29 the reuse in a special industrial area under section 305 shall  
30 enter into an agreement based on the environmental report which

1 outlines cleanup liability for the property. Any person included  
2 in such an agreement shall not be subject to a citizen suit,  
3 other contribution actions brought by responsible persons not  
4 participating in the remediation of the property or other  
5 actions brought by the department with respect to the property  
6 except those which may be necessary to enforce the terms of the  
7 agreement.

8 (b) Liability.--The cleanup liabilities for the person  
9 undertaking the reuse of the property shall include the  
10 following:

11 (1) The person shall only be responsible for remediation  
12 of any immediate, direct or imminent threats to public health  
13 or the environment, such as drummed waste, which would  
14 prevent the property from being occupied for its intended  
15 purpose.

16 (2) The person shall not be held responsible for the  
17 remediation of any contamination identified in the  
18 environmental report, other than the contamination noted in  
19 paragraph (1).

20 (3) Nothing in this act shall relieve the person from  
21 any cleanup liability for contamination later caused by that  
22 person on the property.

23 (c) Developer or occupier.--A person who develops or  
24 occupies the property shall not be considered a responsible  
25 person for purposes of assigning cleanup liability.

26 (d) Successor or assign.--A successor or assign of any  
27 person to whom cleanup liability protection applies for a  
28 property shall not be considered a responsible person for  
29 purposes of assigning cleanup liability, provided the successor  
30 or assign is not a person responsible for contamination on the

1 property who did not participate in the environmental  
2 remediation action.

3 (e) Public utility.--A public utility shall not be  
4 considered a responsible person for purposes of assigning  
5 cleanup liability to the extent the public utility performs  
6 activities on the identified property, provided the public  
7 utility is not a person responsible for contamination on the  
8 property.

9 Section 503. Existing exclusions.

10 The protection from cleanup liability afforded under this act  
11 shall be in addition to the exclusions from being a responsible  
12 person under the statutes listed in section 106.

13 Section 504. New liability.

14 Nothing in this act shall relieve a person receiving  
15 protection from cleanup liability under this chapter from any  
16 cleanup liability for contamination later caused by that person  
17 on a site which has demonstrated compliance with one or more of  
18 the environmental remediation standards established in Chapter  
19 3.

20 Section 505. Reopeners.

21 Any person who completes remediation in compliance with this  
22 act shall not be required to undertake additional remediation  
23 actions unless the department demonstrates that:

24 (1) fraud was committed in demonstrating attainment of a  
25 standard at the site that resulted in avoiding the need for  
26 further cleanup of the site;

27 (2) new information confirms the existence of an area of  
28 previously unknown contamination which contains regulated  
29 substances that have been shown to exceed the standards  
30 applied to previous remediation at the site;

1           (3) the remediation method failed to meet one or a  
2 combination of the three cleanup standards; or

3           (4) the level of risk is increased beyond the acceptable  
4 risk range at a site due to substantial changes in exposure  
5 conditions, such as in a change in land use from  
6 nonresidential to a residential use, or new information is  
7 obtained about a regulated substance associated with the site  
8 which revises exposure assumptions beyond the acceptable  
9 range. Any person who changes the use of the property causing  
10 the level of risk to increase beyond the acceptable risk  
11 range shall be required by the department to undertake  
12 additional remediation measures under the provisions of this  
13 act.

14 Section 506. Authority reserved.

15 Except for the performance of further remediation of the  
16 site, nothing in this act shall affect the ability or authority  
17 of any person to seek any relief available against any party who  
18 may have liability with respect to this site. This act shall not  
19 affect the ability or authority to seek contribution from any  
20 person who may have liability with respect to the site and did  
21 not receive cleanup liability protection under this chapter.

## 22                                   CHAPTER 7

### 23                                   INDUSTRIAL LAND RECYCLING FUND

24 Section 701. Industrial Land Recycling Fund.

25       (a) Fund.--There is hereby established a separate account in  
26 the State Treasury, to be known as the Industrial Land Recycling  
27 Fund, which shall be a special fund administered by the  
28 department.

29       (b) Purpose.--The moneys deposited in this fund shall be  
30 used by the department for the purpose of implementing the

1 provisions of this act.

2 (c) Funds.--In addition to any funds appropriated by the  
3 General Assembly, Federal funds and private contributions and  
4 any fines and penalties assessed under this act shall be  
5 deposited into the fund. Moneys in the fund are hereby  
6 appropriated, upon the approval of the Governor, for the  
7 purposes of this act.

8 (d) Annual report.--The department shall on October 1 of  
9 each year report to the General Assembly on the expenditures and  
10 commitments made from the Industrial Land Recycling Fund.

11 Section 702. Voluntary Cleanup Loan Program.

12 (a) Establishment.--There is hereby established a separate  
13 account in the State Treasury, to be known as the Voluntary  
14 Cleanup Loan Fund, which shall be a special fund administered by  
15 the Department of Commerce. Within 60 days of the effective date  
16 of this act, the Department of Commerce shall finalize  
17 guidelines and issue application forms to administer this fund.  
18 The Department of Commerce, in conjunction with the Department  
19 of Environmental Resources may establish funding priorities  
20 under this program.

21 (b) Purpose.--The Voluntary Cleanup Loan Fund is to help  
22 provide funding to persons undertaking the voluntary remediation  
23 of a property. The funding shall be in the form of low-interest  
24 loans and grants for up to 75% of the costs incurred for  
25 completing an environmental study and for implementing a cleanup  
26 plan for the following categories of applicants:

27 (1) Local economic development agencies, public agencies  
28 and local governments and persons not responsible for  
29 contamination on a site shall be eligible for grants for the  
30 purpose of completing environmental studies and implementing

1 cleanup plans.

2 (2) Low-interest loans shall be available at a rate of  
3 not more than 2% for the purpose of completing environmental  
4 studies and implementing cleanup plans to local governments,  
5 public agencies and persons undertaking site remediation  
6 under this act.

7 (c) Funds.--In addition to any funds appropriated by the  
8 General Assembly, up to \$5,000,000 shall be transferred upon  
9 approval of the Governor each year from the Hazardous Sites  
10 Cleanup Fund established by the act of October 18, 1988  
11 (P.L.756, No.108), known as the Hazardous Sites Cleanup Act, to  
12 the Voluntary Cleanup Loan Fund for the purpose of implementing  
13 the program established in this section. Moneys received by the  
14 Department of Commerce as repayment of outstanding loans shall  
15 be deposited in the fund. Any interest earned by moneys in the  
16 fund shall remain in the fund. The first transfer of funds from  
17 the Hazardous Sites Cleanup Fund required by this subsection  
18 shall occur within 60 days of the effective date of this act.  
19 Moneys in the fund are hereby appropriated, upon the approval of  
20 the Governor, for the purposes of this section.

21 (d) Annual report.--The Department of Commerce shall on  
22 October 1 of each year report to the General Assembly on the  
23 grants, loans, expenditures and commitments made from the fund.

24 SECTION 703. INDUSTRIAL SITES CLEANUP FUND. <—

25 (A) ESTABLISHMENT.--THERE IS HEREBY ESTABLISHED A SEPARATE  
26 ACCOUNT IN THE STATE TREASURY, TO BE KNOWN AS THE INDUSTRIAL  
27 SITES CLEANUP FUND, WHICH SHALL BE A SPECIAL FUND ADMINISTERED  
28 BY THE DEPARTMENT OF COMMERCE. WITHIN 60 DAYS OF THE EFFECTIVE  
29 DATE OF THIS ACT, THE DEPARTMENT OF COMMERCE SHALL FINALIZE  
30 GUIDELINES AND ISSUE APPLICATION FORMS TO ADMINISTER THIS FUND.

1 (B) PURPOSE.--THE INDUSTRIAL SITES CLEANUP FUND IS TO  
2 PROVIDE FINANCIAL ASSISTANCE TO PERSONS WHO DID NOT CAUSE OR  
3 CONTRIBUTE TO THE CONTAMINATION ON PROPERTY USED FOR INDUSTRIAL  
4 ACTIVITY ON OR BEFORE THE EFFECTIVE DATE OF THIS ACT AND WHO  
5 PROPOSE TO UNDERTAKE A VOLUNTARY CLEANUP OF THE PROPERTY. THE  
6 FINANCIAL ASSISTANCE SHALL BE IN AN AMOUNT OF UP TO 75% OF THE  
7 COSTS INCURRED FOR COMPLETING AN ENVIRONMENTAL STUDY AND  
8 IMPLEMENTING A CLEANUP PLAN BY AN ELIGIBLE APPLICANT. FINANCIAL  
9 ASSISTANCE MAY BE IN THE FORM OF GRANTS AS PROVIDED IN THIS  
10 SECTION OR LOW-INTEREST LOANS, TO BE LENT AT A RATE NOT TO  
11 EXCEED 2%.

12 (C) GRANTS.--GRANTS MAY BE MADE TO POLITICAL SUBDIVISIONS OR  
13 THEIR INSTRUMENTALITIES OR LOCAL ECONOMIC DEVELOPMENT AGENCIES  
14 FOR THE PURPOSES OF THIS SECTION IF THE GRANTEE OWNS THE SITE ON  
15 WHICH THE CLEANUP IS BEING CONDUCTED AND THE GRANTEE IS  
16 OVERSEEING THE CLEANUP. THE TOTAL AMOUNT OF GRANTS AWARDED UNDER  
17 THIS SECTION IN ANY ONE FISCAL YEAR SHALL NOT EXCEED 20% OF THE  
18 TOTAL AMOUNT OF THE INDUSTRIAL SITES CLEANUP FUND.

19 (D) LOANS.--LOANS MEETING THE REQUIREMENTS OF SUBSECTION (B)  
20 MAY BE MADE TO THE FOLLOWING CATEGORIES OF APPLICANTS:

- 21 (1) LOCAL ECONOMIC DEVELOPMENT AGENCIES.  
22 (2) POLITICAL SUBDIVISIONS OR THEIR INSTRUMENTALITIES.  
23 (3) OTHER PERSONS DETERMINED TO BE ELIGIBLE BY THE  
24 DEPARTMENT OF COMMERCE.

25 (E) PRIORITY FOR FINANCIAL ASSISTANCE.--THE DEPARTMENT OF  
26 COMMERCE SHALL TAKE ALL OF THE FOLLOWING FACTORS INTO  
27 CONSIDERATION WHEN DETERMINING WHICH APPLICANTS SHALL RECEIVE  
28 FINANCIAL ASSISTANCE UNDER THIS SECTION:

- 29 (1) THE BENEFIT OF THE REMEDY TO PUBLIC HEALTH, SAFETY  
30 AND THE ENVIRONMENT.

- 1           (2) THE PERMANENCE OF THE REMEDY.
- 2           (3) THE COST EFFECTIVENESS OF THE REMEDY IN COMPARISON
- 3           WITH OTHER ALTERNATIVES.
- 4           (4) THE FINANCIAL CONDITION OF THE APPLICANT.
- 5           (5) THE FINANCIAL OR ECONOMIC DISTRESS OF THE AREA IN
- 6           WHICH THE CLEANUP IS BEING CONDUCTED.
- 7           (6) THE POTENTIAL FOR ECONOMIC DEVELOPMENT.

8 THE DEPARTMENT OF COMMERCE SHALL CONSULT WITH THE DEPARTMENT  
9 WHEN DETERMINING PRIORITIES FOR FUNDING UNDER THIS SECTION.

10       (F) TERMS AND CONDITIONS.--THE DEPARTMENT OF COMMERCE SHALL  
11 HAVE THE POWER TO SET TERMS AND CONDITIONS APPLICABLE TO LOANS  
12 AND GRANTS IT DEEMS APPROPRIATE. THE DEPARTMENT OF COMMERCE MAY  
13 CONSIDER SUCH FACTORS AS IT DEEMS RELEVANT, INCLUDING CURRENT  
14 MARKET INTEREST RATES AND THE NECESSITY TO MAINTAIN THE MONEYS  
15 IN THIS FUND IN A FINANCIALLY SOUND MANNER. LOANS MAY BE MADE  
16 BASED UPON THE ABILITY TO REPAY FROM FUTURE REVENUE TO BE  
17 DERIVED FROM THE CLEANUP, BY A MORTGAGE OR OTHER COLLATERAL, OR  
18 ON ANY OTHER FISCAL MATTERS WHICH THE DEPARTMENT OF COMMERCE  
19 DEEMS APPROPRIATE.

20       (G) FUNDS.--IN ADDITION TO ANY FUNDS APPROPRIATED BY THE  
21 GENERAL ASSEMBLY, \$15,000,000 SHALL BE TRANSFERRED FROM THE  
22 HAZARDOUS SITES CLEANUP FUND ESTABLISHED BY THE ACT OF OCTOBER  
23 18, 1988 (P.L.756, NO.108), KNOWN AS THE HAZARDOUS SITES CLEANUP  
24 ACT, TO THE INDUSTRIAL SITES CLEANUP FUND FOR THE PURPOSE OF  
25 IMPLEMENTING THE PROGRAM ESTABLISHED IN THIS SECTION. MONEYS  
26 RECEIVED BY THE DEPARTMENT OF COMMERCE AS REPAYMENT OF  
27 OUTSTANDING LOANS SHALL BE DEPOSITED IN THE FUND. ANY INTEREST  
28 EARNED BY MONEYS IN THIS FUND SHALL REMAIN IN THIS FUND. THE  
29 FIRST TRANSFER OF MONEYS FROM THE HAZARDOUS SITES CLEANUP FUND  
30 REQUIRED BY THIS SUBSECTION SHALL OCCUR WITHIN 60 DAYS OF THE



1 EFFECTIVE DATE OF THIS ACT. MONEYS IN THE FUND ARE HEREBY  
2 APPROPRIATED TO THE DEPARTMENT OF COMMERCE FOR THE PURPOSE OF  
3 IMPLEMENTING THIS SECTION.

4 (H) ANNUAL REPORT.--THE DEPARTMENT OF COMMERCE SHALL ON  
5 OCTOBER 1 OF EACH YEAR REPORT TO THE GENERAL ASSEMBLY ON THE  
6 GRANTS, LOANS, EXPENDITURES AND COMMITMENTS MADE FROM THIS FUND.  
7 THE ANNUAL REPORT SHALL INCLUDE AN EVALUATION OF THE  
8 EFFECTIVENESS OF THIS FUND IN RECYCLING INDUSTRIAL AND  
9 COMMERCIAL SITES. THE EVALUATION SHALL INCLUDE ANY  
10 RECOMMENDATIONS FOR ADDITIONAL CHANGES, IF NECESSARY TO IMPROVE  
11 THE EFFECTIVENESS OF THIS FUND IN RECYCLING SUCH SITES.

12 Section ~~703~~ 704. Fees.

<—

13 (a) Amount.--The department shall collect the following fees  
14 for the review of reports required to be submitted to implement  
15 the provisions of this act:

16 (1) A person utilizing the background or Statewide  
17 health standards for environmental remediation shall pay a  
18 fee of \$250 upon submission of the report certifying  
19 compliance with the standards.

20 (2) A person utilizing site-specific standards for  
21 environmental remediation shall pay a fee of \$250 each upon  
22 the submission of a remedial investigation, risk assessment  
23 and cleanup plan and an additional \$500 at the time of  
24 submission of the final report certifying compliance with the  
25 standards.

26 (3) A person utilizing a combination of background,  
27 Statewide and site-specific standards shall pay the fees  
28 required by paragraphs (1) and (2), as applicable.

29 (4) No fee shall be charged for corrective actions  
30 undertaken under the act of July 6, 1989 (P.L.169, No.32),

known as the Storage Tank and Spill Prevention Act.

(b) Deposit.--Fees imposed under this section shall be deposited in the Industrial Land Recycling Fund established under section 701.

## CHAPTER 9

### MISCELLANEOUS PROVISIONS

Section 901. Plain language.

Remedial investigation, risk assessment, cleanup plans and other reports and notices required to be submitted to implement the provisions of this act shall contain a summary or special section that includes a plain language description of the information included in the report in order to enhance the opportunity for public involvement and understanding of the remediation process.

Section 902. Permits and other requirements.

(a) General rule.--A State or local permit or permit revision shall not be required for remediation activities undertaken entirely on the site if they are undertaken pursuant to the requirements of this act.

(b) Applicable requirements.--The department may waive in whole or in part, in writing, otherwise applicable requirements where responsible persons demonstrate that any of the following apply:

(1) Compliance with a requirement at a site will result in greater risk to human health, safety and welfare and the environment than alternative options.

(2) Compliance with a requirement at a site will substantially interfere with natural or artificial structures or features.

(3) The proposed remedial action will attain a standard

1 of performance that is equivalent to that required under the  
2 otherwise applicable requirement through the use of an  
3 alternative method or approach.

4 (4) Compliance with a requirement at a site will not  
5 provide for a cost-effective remedial action.

6 The department may not waive the remediation standards  
7 established under sections 301, 302, 303 and 304.

8 Section 903. Future actions.

9 At any time, a request may be made to the department to  
10 change the land use of the site from nonresidential to  
11 residential. The department shall only approve the request upon  
12 a demonstration that the site meets all the applicable cleanup  
13 standards for residential use of the property. Any existing deed  
14 acknowledgment contained in the deed prior to the demonstrating  
15 compliance with the residential use standard may be removed.

16 Section 904. Relationship to Federal and State programs.

17 (a) Federal.--The provisions of this act shall not prevent  
18 the Commonwealth from enforcing specific numerical cleanup  
19 standards, monitoring or compliance requirements specifically  
20 required to be enforced by the Federal Government as a condition  
21 to receive program authorization, delegation, primacy or Federal  
22 funds.

23 (b) State priority list.--Any remediation undertaken on a  
24 site included on the State priority list established under the  
25 act of October 18, 1988 (P.L.756, No.108), known as the  
26 Hazardous Sites Cleanup Act, shall be performed in compliance  
27 with the administrative record and other procedural and public  
28 review requirements of the Hazardous Sites Cleanup Act.

29 (c) Storage tanks.--The environmental remediation standards  
30 established under this act shall be used in corrective actions

1 undertaken pursuant to the act of July 6, 1989 (P.L.169, No.32),  
2 known as the Storage Tank and Spill Prevention Act. However, the  
3 procedures in the Storage Tank and Spill Prevention Act for  
4 reviewing and approving corrective actions shall be used in lieu  
5 of the procedures and reviews required by this act.

6 (d) Agricultural chemical facilities.--The environmental  
7 remediation standards and procedures established under this act  
8 shall be used in any remediation undertaken at an agricultural  
9 chemical facility. The Department of Agriculture shall have the  
10 power and its duty shall be to promulgate regulations providing  
11 for the option of safely reusing soil and groundwater  
12 contaminated with agricultural chemicals generated as a result  
13 of remediation activities at agricultural chemical facilities  
14 through the land application of these materials on agricultural  
15 lands. Such regulations shall provide for the appropriate  
16 application rates of such materials, either alone or in the  
17 combination with other agricultural chemicals, prescribe  
18 appropriate operations controls and practices to protect the  
19 public health, safety and welfare and the environment at the  
20 site of land application.

21 (e) Oil spill response.--This act shall not apply to the  
22 removal of a discharge under section 4201 of the Oil Pollution  
23 Act of 1990 (Public Law 101-380, 104 Stat. 484) or the act of  
24 June 11, 1992 (P.L.303, No.52), known as the Oil Spill Responder  
25 Liability Act.

26 Section 905. Enforcement.

27 (a) General.--The department is authorized to use the  
28 enforcement and penalty provisions applicable to the  
29 environmental medium or activity of concern, as appropriate,  
30 established under the act of June 22, 1937 (P.L.1987, No.394),

1 known as The Clean Streams Law, the act of January 8, 1960 (1959  
2 P.L.2119, No.787), known as the Air Pollution Control Act, the  
3 act of July 7, 1980 (P.L.380, No.97), known as the Solid Waste  
4 Management Act, the act of July 13, 1988 (P.L.525, No.93),  
5 referred to as the Infectious and Chemotherapeutic Waste Law,  
6 the act of October 18, 1988 (P.L.756, No.108), known as the  
7 Hazardous Sites Cleanup Act, or the act of July 6, 1989  
8 (P.L.169, No.32), known as the Storage Tank and Spill Prevention  
9 Act, to enforce the provisions of this act.

10 (B) NO DEFENSE TO ILLEGAL ACTIVITIES.--THE PROVISIONS OF <—  
11 THIS ACT DO NOT CREATE A DEFENSE AGAINST THE IMPOSITION OF  
12 CRIMINAL AND CIVIL FINES OR PENALTIES OR ADMINISTRATIVE  
13 PENALTIES OTHERWISE AUTHORIZED BY LAW AND IMPOSED AS THE RESULT  
14 OF THE ILLEGAL DISPOSAL OF WASTE OR FOR THE POLLUTION OF THE  
15 LAND, AIR OR WATERS OF THIS COMMONWEALTH ON THE IDENTIFIED SITE.

16 ~~(b)~~ (C) Fraud.--Any person who willfully commits fraud <—  
17 demonstrating attainment with one or more standards established  
18 under this act shall, upon conviction, be subject to an  
19 additional penalty of \$50,000 for each separate offense or to  
20 imprisonment for a period of not more than one year for each  
21 separate offense, or both. Each day shall be a separate offense.

22 (D) CRIMINAL CONVICTIONS.--IF A PERSON IS CONVICTED IN A <—  
23 COURT OF COMPETENT JURISDICTION OF A VIOLATION OF THE CRIMINAL  
24 PROVISIONS OF AN ACT IDENTIFIED IN SECTION 106 IN THE DEGREE OF  
25 MISDEMEANOR OR FELONY AND THE VIOLATION ARISES FROM UNLAWFUL  
26 CONDUCT WHICH RESULTS IN A RELEASE AT A SITE, THE COURT MAY, IN  
27 ADDITION TO ANY FINES, IMPRISONMENT OR OTHER PENALTIES IMPOSED  
28 UNDER THE APPROPRIATE ACT, ORDER THE PERSON TO PERFORM  
29 REMEDIATION AT THE SITE CONSISTENT WITH THE PROVISIONS AND  
30 STANDARDS ESTABLISHED UNDER SECTION 302 OR 303.

1 Section 906. Past penalties.

2 Persons who have no responsibility for contamination on a  
3 site and participate in environmental remediation activities  
4 under this act shall not be responsible for paying any fines or  
5 penalties levied against any person responsible for  
6 contamination on the property.

7 Section 907. Evaluation.

8 Beginning three years after the effective date of this act  
9 and every two years thereafter, the department shall conduct and  
10 submit to the General Assembly an evaluation of the  
11 effectiveness of this act in recycling existing industrial and  
12 commercial sites. The evaluation shall include any  
13 recommendations for additional incentives or changes, if needed,  
14 to improve the effectiveness of this act in recycling such  
15 sites.

16 Section 908. Repeals.

17 (a) Absolute.--Section 504(b) through (d) of the act of  
18 October 18, 1988 (P.L.756, No.108), known as the Hazardous Sites  
19 Cleanup Act, are repealed.

20 (b) General.--All other acts and parts of acts are repealed  
21 insofar as they are inconsistent with this act and related to  
22 environmental remediation.

23 Section 909. Effective date.

24 This act shall take effect in 60 days.